

file

210


100 Executive Drive
Marion, OH 43302

June 8, 2001

Ms. Daisy Crockron
Public Utilities Commission of Ohio
Chief of Docketing
180 E. Broad St.
Columbus, OH 43215-3793

RECEIVED
JUN 8 2001
DOCKETING DIVISION
PUCO

RE: PUCO Case No. 98-1398-TP-AMT

Dear Ms. Crockron:

In accordance with the February 10, 2000 Order in the above case, Verizon implemented the September 7, 1999 version of the California Amended Joint Partial Settlement Agreement (AJPSA) for Operations Support Systems (OSS) in Ohio. Subsequent AJPSA modifications, including the metrics, standards and ancillary issues such as reporting process, audit, review procedures, etc., were jointly filed by the CLECs and Verizon in California and approved on May 24, 2001 by the California Public Utilities Commission.

As noted in the Ohio Order, and per collaborative discussions with participating CLECs, Ohio Consumers' Counsel (OCC), and PUCO Staff, Verizon's OSS is recognized as national in scope. Because of this, the AJPSA changes will be implemented for Ohio, as outlined in the implementation schedule provided with the approved CA AJPSA (attached). The collaborative members have concurred in this approach.

Sincerely,


Jack W. Kennedy
President

JWK:pc

c: Distribution List

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.
Technician B.M.C. Date Processed 6/8/01

SERVICE LIST

Case No. 98-1398-TP-AMT

Joseph P. Serio, Esq.
David C. Bergmann, Esq.
Ohio Consumers' Counsel
One Columbus
10 West Broad Street, Suite 1800
Columbus, Ohio 43215

Douglas W. Trabaris, Trial Attorney
David J. Chorzempa, Esq.
AT&T Communications Of Ohio, Inc.
227 West Monroe Street, Suite 1300
Chicago, Illinois 60606

Benita A. Kahn, Esq.
Vorys, Sater, Seymour and Pease, LLP
52 East Gay Street
P.O. Box 1008
Columbus, Ohio 43216-1008

Roger P. Sugarman, Esq.
Leigh A. Reardon, Esq.
Kegler, Brown, Hill & Ritter
65 East State Street, Suite 1800
Columbus, Ohio 43215

Joseph R. Stewart, Esq.
United Telephone Company of Ohio
50 West Broad Street, Suite 3600
Columbus, Ohio 43215

Christopher Holt
Assistant General Counsel
CoreComm Incorporated
110 East 59th Street
New York, NY 10002

Boyd B. Ferris, Esq.
Ferris & Ferris
2733 W. Dublin-Granville Road
Columbus, Ohio 43235-2798

Ellis Jacobs, Esq.
Edgemont Neighborhood Coalition
Legal Aid Society of Dayton
333 West First Street, Suite 500
Dayton, Ohio 45402

Helen L. Liebman, Esq.
Jones, Day, Reavis & Pogue
1900 Huntington Center
Columbus, Ohio 43215

Eric J. Branfman, Esq.
Swidler Berlin Shereff Friedman, LLP
3000 K Street, NW
Washington, DC 20007

William S. Newcomb, Jr., Esq.
Stephen M. Howard, Esq.
Joseph C. Blasko, Esq.
52 East Gay Street
P.O. Box 1008
Columbus, Ohio 43216-1008

Sally W. Bloomfield, Esq.
Bricker & Eckler, LLP
100 South Third Street
Columbus, Ohio 43215-4291

Judith B. Sanders, Esq.
Bell, Royer & Sanders Co., LPA
33 South Grant Avenue
Columbus, Ohio 43215-3927

Jane Van Duzer
MCI Telecommunications Corp.
205 North Michigan Avenue, Suite 3700
Chicago, Illinois 60601

Evelyn Schaeffer
1211 Route 45
Austinburg, Ohio 44010

Jay Agranoff
Attorney Examiner
The Public Utilities Commission of Ohio
180 E. Broad St.
Columbus, Ohio 43215-3793

Steven T. Nourse, Esq.
Jodi Bair, Esq.
Thomas McNamee, Esq.
Ohio Attorney General's Office
Public Utilities Section
The Public Utilities Commission of Ohio
180 E. Broad St.
Columbus, Ohio 43215-3793

Douglas W. Kinkoph, Vice President
Regulatory and External Affairs
Denise Cleary Clayton, Esq.
Christine E. Hale, Esq.
Nextlink Ohio, Inc.
Two Easton Oval, Suite 300
Columbus, Ohio 43219

Pamela Sherwood
Time Warner Telecom
4625 West 86th Street, Suite 500
Indianapolis, Indiana 46268

Sonny Hines
The Public Utilities Commission of Ohio
180 E. Broad St.
Columbus, Ohio 43215-3793

Lee T. Lauridsen, Esq.
David L. Woodsmall, Esq.
Sprint Communications
Company L.P.
8140 Ward Parkway
Kansas City, Missouri 64114

ALJ/CMW/tcg *

Mailed 5/29/2001

Decision 01-05-087 May 24, 2001

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the
Commission's Own Motion into Monitoring
Performance of Operations Support Systems.

Rulemaking 97-10-016
(Filed October 9, 1997)

Order Instituting Investigation on the
Commission's Own Motion into Monitoring
Performance of Operations Support Systems.

Investigation 97-10-017
(Filed October 9, 1997)

TABLE OF CONTENTS

Title	Page
OPINION.....	2
Summary	2
I. Procedural Background	3
II. The Revised Joint Partial Settlement Agreement.....	7
III. Comments on the JPSA	8
IV. The Revised JPSA is Reasonable, Consistent with the Law, and in the Public Interest	11
A. Summary.....	11
B. Discussion.....	11
C. Next Steps.....	16
V. Comments on Draft Decision.....	16
Findings of Fact.....	16
Conclusions of Law.....	18
ORDER.....	19

Appendix A – List of Appearances

Appendix B – Summary of Changes to OSS Performance Measurements
Contained in the November 6, 2000 Joint Partial Settlement
Agreement (JPSA) and Disputed Issues Remaining for
Commission Resolution

Appendix C – Joint Partial Settlement Agreement

O P I N I O N

Summary

Today we adopt revisions to the comprehensive framework for Operations Support Systems (OSS) performance measurements and standards that we adopted over a year ago in Decision (D.) 99-08-020.¹ These OSS measurements and standards are critical to ensuring that California's consumers have choices in local exchange telephone companies. OSS performance measurements and standards allow the Commission, the industry, and consumer advocates to measure and analyze the performance of Pacific and Verizon in providing their competitors nondiscriminatory access to their mechanized operating systems which store customer records and dispatch and monitor all network operations.

The revisions that we adopt today were proposed by Pacific, Verizon, and several of their major competitors (known as competitive local exchange carriers (CLECs)) after a comprehensive review of the OSS measurements, submeasurements, standards, and rules that we adopted last year in D.99-08-020. This group, collectively the Settling Parties, undertook the initial review of which OSS performance measurements and standards should be modified.² These are the companies providing or using OSS on a daily basis and therefore they have

¹ OSS are the manual and electronic systems by which competitive exchange carriers and the incumbent carriers, like Pacific Bell Telephone Company (Pacific) and Verizon California Inc. (Verizon, f/k/a GTE California, Inc.), exchange information regarding a number of logistical, technical, and administrative matters, including, but not limited to, billing, ordering, transfer of service, and new accounts.

² The Settling Parties are AT&T Communications of California, Inc. (AT&T), WorldCom, Inc. (WorldCom), Electric Lightwave, Inc. (ELI), ICG Access Services, Inc., Sprint Communications Company, L.P. (Sprint), Covad Communications Co. (Covad), Nextlink, Time Warner Telecom of California (TWTC), Pacific and Verizon.

the greatest knowledge and experience with Pacific's and Verizon's operating problems and capabilities. In addition to adopting major revisions to our OSS performance measurements and standards, we also adopt timetables for implementing the modifications and set a firm date to begin our 2001 review.

This decision does not address performance incentives for access to OSS subfunctions. On January 18, 2001, the Commission issued interim opinion D.01-01-037 in the incentive phase of this proceeding, which will establish remedies to ensure our OSS performance standards are met.

Although the parties agreed to significant modifications in the Joint Partial Settlement Agreement (JPSA) we adopt today, several issues regarding OSS performance measurements and standards remain in dispute. The Commission will address these issues in a later decision.

I. Procedural Background

On October 9, 1997, the Commission initiated this rulemaking proceeding as a procedural vehicle to accomplish the following three goals:

- a. to determine reasonable standards of performance for Pacific and Verizon in their OSS;
- b. to develop a mechanism that will allow the Commission to monitor improvements in the performance of OSS; and
- c. to assess the best and fastest method of ensuring compliance if standards are not met or improvement is not shown.

In 1997, when the Commission initiated this proceeding, it recognized that it lacked the standards that it would need to evaluate Pacific's and Verizon's compliance with the requirements of the Telecommunications Act of 1996 (TA 96) and the Federal Communications Commission's (FCC) rules implementing TA 96. TA 96 requires incumbent local exchange carriers (ILECs)

to provide competitors nondiscriminatory access to their operations support systems (OSS).³

The Commission also noted that this proceeding will prove critical to the Commission's ability to make an informed review of Pacific's OSS system under the § 271 application process of TA 96.⁴ In August 1997, the FCC ruled that, with regard to those OSS subfunctions with retail analogs, a BOC must offer OSS subfunctions to CLECs that are on par with their own; they "must provide access to competing carriers that is equal to the level of access that the BOC provides to itself, its customers, or its affiliates, in terms of quality, accuracy, and timeliness."⁵

A "retail analog" exists when a BOC offers a retail service comparable to the one offered by a CLEC. When the BOC offers no comparable retail service, no retail analog exists. For those OSS sub-functions without retail analogs, a BOC must offer access sufficient to allow an efficient competitor "a meaningful

³ See *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, First Report and Order* (LCO), 12 FCC Rcd 15766, Paragraphs 516, 523.

⁴ Regulators at the federal and state levels often allude to the "§ 271 process" and "§ 271 applications." They are referring to the statutory requirements under § 271 of the 1996 Telecommunications Act, which require Bell Operating Companies (BOCs) to open their local service markets to competition before being allowed to provide long distance services to their customers.

⁵ See *In the Matter of Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, to Provide In-Region, InterLATA service in Michigan, Memorandum Opinion and Order*, 12 FCC Rcd 20543, 20618-19 [¶139] (1997) (Ameritech Opinion).

opportunity to compete.”⁶ The task of measuring progress towards these goals falls largely on state commissions.

On August 5, 1999 in D.99-08-020, the Commission adopted a comprehensive framework for OSS performance measurements and standards. In large part, the framework was the result of collaborative work among Pacific, Verizon, CLECs, and our Telecommunications Division staff. The Commission also adopted the parties' recommendation that the measurements and standards be reviewed and refined after six months. The "Joint Partial Settlement Agreement" (JPSA), the terms of which the Commission adopts today, grew out of this review process.

On March 24, 2000, pursuant to Rule 51.1(b) of the Commission's "Rules of Practice and Procedure," Pacific gave written notice to all parties of this proceeding that it would convene a settlement conference regarding the review of OSS performance measurements and standards. Following the initial settlement conference, interested parties met frequently over a six-month period to discuss revisions to the forty-four OSS measurements, and the many submeasures, standards, and business rules contained in the existing JPSA.

On July 18, 2000, the Settling Parties filed a "Joint Motion for Adoption of Partial Settlement Agreement Pursuant to Article 13.5 of the Commission's Rules of Practice and Procedure. On July 31, 2000, Verizon and Pacific filed separate motions in which they argued the merits of their positions on the "open" issues that remained among the Settling Parties. The CLEC members of the Settling

⁶ See Ameritech Opinion, 12 FCC Rcd 20619 [¶ 141]. See also, BellSouth (Louisiana II) Opinion at ¶87 (citing Ameritech Opinion at 12 FCC Rcd at 20619).

Parties also filed a joint motion arguing that the Commission should adopt their collective positions regarding the open issues.

On July 31, 2000, NorthPoint Communications, Inc. (NorthPoint) and Rhythm Links, Inc. (Rhythms), neither of which joined the Settling Parties in the JPSA, filed comments on the settlement, the review process, and their position on open issues. In addition to presenting their position on open issues in these comments, NorthPoint and Rhythms argue that the review process is too long and burdensome for smaller competitors, particularly the data CLECs (DLECs); they recommend the Commission limit future reviews to one month.

On August 8, 2000, parties filed replies to the motions and comments. NorthPoint and Rhythms elected to forgo a reply brief and, instead, joined the CLECs in their reply brief. However, NorthPoint and Rhythms did not withdraw their proposal that the Commission limit the review process to a one month period and, therefore, did not join the CLECs' reply on that issue.

On August 17, 2000, the Office of Ratepayer Advocates (ORA) filed, pursuant to Rule 51.4 of the Commission's Rules of Practice and Procedure, comments in opposition to portions of the JPSA, recommending that proposed benchmarks for 16 measurements be established as parity measures before the Commission adopts the proposed settlement. In addition, ORA raised its concerns regarding the timeliness of its receipt of data.

On September 15, 2000, ORA filed a motion to withdraw its August 17th comments in exchange for the Settling Parties agreeing to give consideration to its concerns in the review. The Settling Parties filed a copy of the Memorandum of Understanding (MOU) that memorializes their agreement with ORA on September 20, 2000.

In addition, on November 6, 2000, the Settling Parties filed by motion a revised JPSA that expanded their July JPSA by adding approximately 60 additional agreements. Finally, on February 13, 2001, Verizon, and three participating CLECs⁷ filed a joint motion for approval of changes to Measurement 9. Verizon and the CLECs assert that their agreement resolves the disputed issue concerning Measurement 9.

II. The Revised Joint Partial Settlement Agreement

In their motion, the Settling Parties state that the JPSA represents their best efforts to ensure that OSS performance measurements and standards reflect the requirements of the real world. Towards this end, the Settling Parties have amended language, added two new measurements, deleted two measurements, included additional services and service levels, modified standards, clarified language, and agreed to meet and review OSS performance measurements again in March 2001. The Settling Parties have also proposed a timetable for implementing the changes entailed by adopting the JPSA.

In the JPSA, where the Settling Parties agreed about a proposed modification, the parties changed or added language to the standards we adopted in D.99-08-020. Where the parties disagreed about a proposed modification, they left the original language intact and recorded the proposed modification in an "open issues" document. The Settling Parties have also agreed to an implementation schedule for the JPSA, which they included under Section VIII of the JPSA. The November 6th proposed JPSA is attached at Appendix C.

⁷ AT&T, WorldCom, and TWTC.

To facilitate our review of the JPSA, we summarize the purpose of each OSS performance measurement, identify the proposed modifications contained in the JPSA, and specify the disputed issues, referred to by the Settling Parties as "open issues." We provide this discussion in a separate appendix, Appendix B. We do this due to the length and technical nature of the summary.

III. Comments on the JPSA

The Settling Parties submit that the JPSA is reasonable in light of the whole record of competition in the California local exchange market, is consistent with the stated objectives of the Commission in this proceeding, and meets the Commission's public interest test for the approval of settlements. They assert that the measurements and standards of the JPSA are consistent with applicable law because they provide regulators with objective terms with which to measure the compliance of ILECs with TA 96. Furthermore, the JPSA, the Settling Parties observe, strikes a "reasonable compromise" between evaluating the ILECs' delivery of OSS and the administrative burdens of monitoring the ILECs' performance.

The Settling Parties also assert that the JPSA is in the public interest because many of the carriers that would be most directly affected by the standards by which Pacific and Verizon's OSS are provisioned have consented to its adoption. Because the CLECs who joined the Settling Parties will provide many local service options to California consumers, their concurrence in the JPSA, the Settling Parties collectively argue, makes the public's interest in the JPSA even greater.

NorthPoint and Rhythms participated in the February 2000 OSS performance measurement review but did not join the Settling Parties in signing the JPSA. On July 31, 2000, NorthPoint and Rhythms filed comments on the

review process, on open issues, and on the proposed JPSA. On August 8, 2000, NorthPoint and Rhythms joined the CLEC members of the Settling Parties in filing a response to Pacific and Verizon on the open issues. Their positions on the open issues are reflected in Appendix B.⁸ We discuss here their comments on the review process and adoption of the JPSA.

In their comments on the review process, NorthPoint and Rhythms state that only a very small group of CLECs were able to participate throughout the entire review process and, therefore, the proposed JPSA does not adequately represent the entire CLEC industry, especially the data CLECs' (DLECs)⁹ interests. NorthPoint participated in the review process for approximately five weeks beginning in late May, and stated that during this period there were three day-long meetings at Pacific's offices in addition to three or more several-hour conference calls each week. During these meetings there were approximately 3-5 CLECs participating regularly and another 1 or 2 CLECs participating occasionally. NorthPoint decided not to sign the proposed JPSA because it was "unable to dedicate the resources needed to adequately address . . . [its] . . . concerns through this process without leaving an expansive list of open issues for the Commission to decide."

NorthPoint and Rhythms assert that most small and mid-sized CLECs do not possess the resources to effectively participate in an "almost 6 month

⁸ Appendix B is a summary meant for informational purposes. The language of the revised JPSA, Appendix C, is controlling in the event that there are inconsistencies between the language of Appendices B and C.

⁹ DLECs are those who only transport data traffic and do not transport voice communications.

non-stop process for reviewing these measures." They recommend that the Commission impose a review process that lasts no longer than one month in order to encourage broader CLEC participation.

While NorthPoint and Rhythms request the Commission change the review period proposed in the JPSA, they do not object to the Commission adopting all other portions of the JPSA. In their comments, they recognize the JPSA before us here is an improvement over the agreement we adopted in D.99-08-020, stating "the efforts of the CLECs that did participate throughout the entire process led to many improvements in the proposed JPSA."

On August 17, 2000, ORA filed comments pursuant to Rule 51.4 of the Commission's Rules of Practice and Procedure. In its comments, ORA objects to adoption of the JPSA because it relies on benchmarks rather than parity standards and because performance measurement data is not readily available to ORA. However, on September 15, 2000, after negotiating with the Settling Parties, ORA withdrew its Comments. In consideration for this, the Settling Parties agreed to undertake the following with respect to OSS performance measures:

- To include the Office of Ratepayer Advocates (ORA) staff in discussions about the functionality of the OSS performance measures website and the configuration of the performance data on the website, and
- In the context of the March 2001 annual review of OSS performance measures, to consider amending the standards of at least five performance measures, which are currently benchmark standards, to either a party standard or standard based upon historical data.

IV. The Revised JPSA is Reasonable, Consistent with the Law, and in the Public Interest

A. Summary

Rule 51.1 of the Commission's "Compiled Rules of Practice and Procedure" governs the proposal of settlements. Rule 51.1(e) requires that a settlement be "reasonable in light of the whole record, consistent with law, and in the public interest" before it is approved. Based on the discussion here, we find that the JPSA is reasonable in light of the whole record, consistent with law, and in the public interest. Therefore, we will adopt the agreement.

B. Discussion

The JPSA is the result of lengthy negotiations among Pacific, Verizon, and several CLECs. The Settling Parties reviewed all of the measurements and standards that were adopted by the Commission in D.99-08-020. They also reviewed those issues that the Commission specifically required parties to re-negotiate in the August 1999 decision.

The "open issues" on which the Settling Parties cannot agree have been discussed extensively in the motions and replies submitted by the parties. Because some of the open issues involve further modifications to the measurements and standards that we adopted in D.99-08-020, the JPSA should be received as a partial statement of OSS performance standards and measurements. We have indicated in Appendix B which elements are subject to revision, pending our resolution of the open issues.

As a threshold matter, the Settling Parties seek to limit the application of the JPSA. "By seeking approval of the JPSA, the Settling Parties make no representation that the JPSA constitutes a definitive or a conclusive standard for Pacific's or GTE's compliance with the Telecommunications Act of 1996."

Furthermore, AT&T reserves its rights to argue that "parity, not benchmarks, are the appropriate performance measures under applicable law." Still further, by agreeing to the terms of the JPSA, Pacific and Verizon make no commitments or admissions regarding the "propriety or reasonableness of establishing performance remedies."

The limitation the Settling Parties place on the JPSA are consistent with the evolving process the Commission is using to develop and implement OSS performance measurements. The JPSA before us today is more comprehensive than the JPSA we approved in D.99-08-020. As the Settling Parties observe, the JPSA "embodies the best efforts of the CLECs, Pacific, and GTE to modify, as necessary or appropriate, the performance measurements approved by the Commission in D.99-08-020." We will be refining the measurements when we decide the open issues and the Settling Parties themselves propose reviewing the measurements again in March 2001. The performance measurements are only one measure of compliance with TA 96, and therefore, by approving the JPSA we are not concluding that it represents a definitive or conclusive standard for Pacific's or Verizon's compliance with TA 96.

The Settling Parties have submitted a document clearly outlining the specific elements of their proposed changes along with the rationale for their modifications to the measurements, standards, and business rules we adopted in D.99-08-020. While we adopt the revised JPSA based on our own independent analysis, we note that the JPSA represents the consensus among fiercely competitive parties that normally agree on very little.

We find that the JPSA is a proposal that provides a comprehensive update to the OSS performance measurements and standards we adopted in D.99-08-020. The JPSA adds new services, service levels, and products, includes

two new measurements, deletes one service measurement because a quicker alternative is available, and clarifies existing business rules. The proposal reflects the experience that industry participants have gained since our earlier proceeding and provides substantial progress toward fully achieving our goal to provide competitors nondiscriminatory access to Pacific's and Verizon's OSS. The JPSA articulates in a detailed manner the very categories by which the Commission, the industry, and consumer advocates can measure, analyze, and review the success of Pacific and Verizon in providing nondiscriminatory access to OSS.

Promoting competition in California's local exchange telephone market, as required by TA 96 and California Pub. Util. Code §§ 709.5 and 709.7 is a significant public policy goal of this Commission. To achieve our goal, competitors must have access to pre-ordering, ordering, provisioning, maintenance and network performance, database updates, collocation, and interface information (the OSS subfunctions) from Pacific and Verizon that is equal to the level of access in terms of quality, accuracy, and timeliness that Pacific and Verizon provide themselves, their customers, and their affiliates. Without this nondiscriminatory access, competitors that need to use Pacific and Verizon's network to provide local exchange service cannot provide their customers quality service. Therefore, the revised JPSA is reasonable and in the public interest.

The JPSA is consistent with applicable law because it offers a system of objective terms by which the Commission can measure, discuss, and analyze the success of Pacific and Verizon in meeting their legal duties under TA 96 and the FCC rules implementing the 1996 Act. The measurements and standards contained in the JPSA will greatly assist the Commission in making legal and

factual judgments about OSS subfunctions both when we review any current or future Section 271 applications by Pacific and also when we review facts in connection with OSS performance incentives.

NorthPoint and Rhythms request the Commission change the review procedures contained in Section VI of the JPSA. In Section VI, the Settling Parties agree to reconvene on or around March 1, 2001 to review the effectiveness of and modifications to the performance measurements approved by the Commission in this proceeding. The parties agree to conclude this review within 90 days of its commencement and to submit their revisions to the Commission, together with any disputed issues, within the 90-day review period. NorthPoint and Rhythms request we shorten this review period to 30 days in order to ensure that smaller CLECs can fully participate in the process.

The Settling Parties spent six months in reviewing and negotiating the proposed JPSA. Their agreement to limit the review period in 2001 appears to be an accommodation to NorthPoint's and Rhythm's concern. We have found it very beneficial for the parties to spend considerable time and effort identifying and discussing the very detailed and technically complex OSS issues involved in setting OSS performance measurements and standards. Without the parties doing this work, the Commission would not have the comprehensive OSS measurements and standards it has today. Both NorthPoint and Rhythms were able to participate in portions of this review process and other DLECs can also identify specific areas of interest and participate in those areas of review. We find the JPSA's three-month review period to be reasonable and, therefore, adopt it.

A final issue that the Settling Parties bring before us in the JPSA is their objection to the inclusion of Commission ordered language in the actual settlement document. In D.99-08-020, the Commission decided the disputed

issues before it and inserted our requirements directly into the proposed JPSA format, making Appendix B of the decision a complete list of all adopted OSS measurements, standards, auditing, reporting, implementation, and review procedures. In the proposed JPSA before us today, the Settling Parties have deleted the Commission-added language from the statement of OSS measurements and standards because they believe inclusion in the proposed JPSA of this language creates an invalid impression that the parties themselves have reached an agreement on these measurements.

The Settling Parties "expressly agree" that any language added by the Commission in its D.99-08-020 decision which obligates Pacific or Verizon "to provide certain types of OSS access or to perform certain auditing or reporting requirements remains enforceable as part of that decision and is not rendered unenforceable as a result of having been removed by the parties." Nevertheless, the Settling Parties request that, in the future, the Commission avoid adding such language to the JPSA. The Settling Parties propose that the Commission include such language with the ordering paragraphs of the decision by which the Commission adopts the JPSA.

We should accommodate the Settling Parties request to not include our modifications directly in their signed settlement document. However, we do not agree with the Settling Parties that the Commission's modifications should only be contained in the ordering paragraphs of its decisions. We find it beneficial to have all OSS performance measurements and standards available in one place for ease of reference and to ensure the public and all interested parties are fully informed.

Therefore, we should include at Appendix C a separate listing of the Commission modifications in D.99-08-020 together with the JPSA we adopt

today. The Settling Parties have facilitated this process by placing the Commission's D.99-08-020 adopted language at the front of their revised JPSA. This addition is clearly identified as the work of the Commission. This supplement and the revised JPSA, together, will serve as a single statement of our adopted OSS performance measurements and standards.

C. Next Steps

The Commission will resolve the open issues and then schedule a prehearing conference to begin the 2001-review process.

V. Comments on Draft Decision

The draft decision of Administrative Law Judge Walwyn in this matter was mailed to the parties in accordance with Section 311(g)(1) of the Pub. Util. Code and Rule 77.7 of the Rules of Practice and Procedure. Comments were filed by AT&T, XO, WorldCom, and Pacific (Joint Commenters) and Verizon on May 14, 2001, and reply comments were filed on May 21, 2001.

We adopt the technical corrections recommended by the Joint Commenters and the recommendation of Joint Commenters and Verizon to resolve the open issues before beginning the 2001 review. While September 2001 is a reasonable timeframe for resolving the open issues, our resources and other priorities do not allow us to commit to the specific schedules requested by commenters.

Findings of Fact

1. On August 5, 1999, the Commission adopted a comprehensive framework for OSS performance measurements and standards, which was largely the result of collaborative work among Pacific, Verizon, CLECs, and our Telecommunications staff.
2. On July 18, 2000, several California CLECs and ILECs, the Settling Parties, filed a "Joint Motion for Adoption of Partial Settlement Agreement Pursuant to

Article 13.5 of the Commission's Rules of Practice and Procedure." The Settling Parties later added further agreements to the JPSA and submitted the revisions to the Commission by motions on November 6, 2000 and February 13, 2001.

3. Several proposals to make additional modifications to the JPSA remain in dispute among the Settling Parties, NorthPoint, and Rhythms.

4. On August 17, 2000, ORA filed, pursuant to Rule 51.4 of the Commission's Rules of Practice and Procedure, comments opposing portions of the revised JPSA.

5. On September 20, 2000, the Settling Parties filed "Response of Settling Parties to the Office of Ratepayer Advocates' Motion to Withdraw Comment: Confirmation of Resolution of Issues." ORA and the Settling Parties have entered into an MOU in which the Settling Parties agree to address some of ORA's comments in the 2001 review of OSS performance measurements and standards.

6. The revised JPSA articulates in a detailed manner the very categories by which the Commission, the industry, and consumer advocates can measure, analyze, and review the success of Pacific and Verizon in providing nondiscriminatory access to OSS.

7. The revised JPSA adds new services, service levels, and products, includes two new measurements, deletes two service measurements because a quicker alternative is available, and clarifies existing business rules.

8. The OSS performance measurements and standards set forth in the revised JPSA provide a critical framework within which the Commission can assess the ILECs' compliance with the Telecommunications Act of 1996, and their delivery of nondiscriminatory OSS services. The OSS performance and standards

outlined in the revised JPSA will also prove critical in the 271 application process for Pacific.

Conclusions of Law

1. The revised JPSA is a proposal that provides a comprehensive update to the OSS performance measurements and standards we adopted in Decision (D.) 99-08-020.
2. The revised JPSA reflects the experience that industry participants have gained since we issued D.99-08-020.
3. The revised JPSA's proposal of a three-month initial review process among interested parties is reasonable.
4. The revised JPSA submitted by the Settling Parties is reasonable in light of the whole record, consistent with law, and in the public interest.
5. The issues remaining in dispute, the open issues, are identified at Appendix B and should be addressed in a later Commission decision.
6. The Memorandum of Understanding between ORA and the Settling Parties should be addressed by the Settling Parties in the 2001 review of OSS performance measurements and standards.
7. The language which the Commission adopted as revisions to the JPSA in D.99-08-020, together with the November 6, 2000 revised JPSA and the February 13, 2001 Verizon and participating CLECs Measurement 9 agreement, constitute our adopted framework for OSS performance measurements and standards in California. The revised JPSA should be considered a partial statement of OSS performance measurements and standards since disputed issues remain such that the resolution of those issues, identified at Appendix B, place portions of the revised JPSA subject to amendment.

O R D E R

IT IS ORDERED that:

1. We adopt the revised JPSA at Appendix C.
2. The open issues identified by parties, and summarized in Appendix B, shall be addressed in a future decision.
3. The schedule for the 2001 Operations Support Systems performance measurements review shall be set by separate ruling.

This order is effective today.

Dated May 24, 2001, at San Francisco, California.

LORETTA M. LYNCH

President

HENRY M. DUQUE

RICHARD A. BILAS

CARL W. WOOD

GEOFFREY F. BROWN

Commissioners